

## **Proposed Ordinance Changes for Discussion and August Hearing**

The following is a list of “housekeeping” ordinance changes to address errors, omissions, inconsistencies, and differences between ordinance language and current town practice. It is recommended that each item be discussed by the Planning Commission and a decision made to either draft the item in formal ordinance language or to amend, table, or delete the item.

Although the PC intends to propose a new subdivision ordinance this process may take over a year and there are subdivision applications that must be reviewed in the interim. The intention of these changes is to provide clarity, not to change policy at this time.

1) Correct the omission in 2022-1 of a second reference to exclusion of road easements from lot area as pointed out by the Zoning Administrator.

“152.041 (H) (2) (a) to read:

The Town Engineer, as appointed by the Council, may review the proposed street and road design for compliance with the requirements of the town. The proposed street and road layout shall provide adequate and safe access to all proposed lots and proposed and existing roads and streets. ~~Minimum lot sizes as required by the town’s Zoning Ordinance shall be exclusive of road easements and rights-of-way.~~ If the subdivision will be accessed from a state highway, an appropriate access permit, as required by the state’s Department of Transportation, shall be provided with the application materials.”

2) Correct the typographic and codification error in 2022-1 regarding numbering of definitions:

Repeal incorrect reference to 152.011 in ordinance 2022-1 and replace with language to insert the definitions of private street and driveway in 152.006.

3) Delete all reference to posting notice in a newspaper. Policy changed in April 2021 but ordinance language requiring newspaper notice was

not repealed. Corrections needed in 152.131, 152.132, 153.381, 153.382. 153.383.

4) Delete flowchart figures from the ordinances. Codifying flow charts is not common practice, and the figures posted on American Legal contain errors compared to the ordinance text. This correction involves deletion of 10 figures:

Following 152.029	Figure 1	Subdivision completeness
Following 152.029	Figure 2	Subdivision concept plan
Following 152.047	Figure 3	Preliminary subdivision plat
Following 152.069	Figure 4	Final subdivision plat
Following 152.077	Figure 1	General plan amendment
Following 152.077	Figure 2	Zoning amendment
Following 153.103	Figure 3	Application completeness
Following 153.137	Figure 4	Permitted use
Following 153.156	Figure 5	Conditional use
Following 153.173	Figure 6	Exemptions

5) Delete obsolete language regarding drawings prepared in pen and submitted as paper copies in two locations: 152.041, 152.061

Insert: “Application documents shall be submitted in PDF format with all text legible.” Note the PDF requirement is now in State Law. Need to update language regarding submitting a physical printout of the plat for signatures in Boundary adjustment 152.116, Preliminary plat 152.041, and Final plat 152.061

6) Clarify that the requirement for a maintenance agreement in 152.041 (H) (3) applies when a subdivision plat shows a private driveway serving more than one lot.

7) Clarify subdivision plat requirements to delete “with their addresses shown” from the preliminary plat 152.041 (B) (3) (e) as the county does not assign addresses until recording the final.

8) Add as 152.041 (C) (4) and renumber accordingly the explicit requirement that legal access to each lot be documented. “(4) The location and width of recorded transportation and utility access from

each lot to a public street or highway by dedicated public streets, private streets, driveway easements, or utility easements, including the recorded document citation. Unrecorded prescriptive easements allow continuation of the historic use, but shall not be relied on for construction of new improvements. Proposed easement agreements may indicate that they will become effective upon recording the final plat.” Note: 153.190 requires access but does not explicitly require full details on the plat.

9) Relocate building permits. All building permit requirements belong in one place, Section 151 “Building Regulations.” Delete 152.080 and 152.081 from the subdivisions section and insert these requirements in Section 151 but eliminating redundant items between the 1996 and 2003 ordinances.

10) There are numerous references in the land use ordinances to forms being processed by a specific town officer, but actual practice is that work is shared by the town clerk, the planning commission secretary, and the zoning administrator. Also, the Town Council is discussing cross training to insure coverage for absences or vacations. A recommended solution will be to include in Section 10.05 Rules of Interpretation the following item (A) (4) “All references to actions performed by a specific town officer shall be interpreted to include substitution of any assistant, temporary appointee, or designated alternative individual authorized by the Mayor to perform those duties.”

11) Insert Primary dwelling definition based on revised state law.

12) Fix the internal contradiction in the ordinances regarding timing on subdivision infrastructure construction. 152.095 (A) (2) implies completion of “all the required amenities and infrastructure together with any other conditions imposed by the town **prior** to the execution and recordation of the final plat with the County Recorder’s office” but 152.096 implies construction of roads and water mains “**Following the recording** of the final subdivision plat.” Further 152.047 and 152.069 contain identical language that states “No excavation, grading or regrading shall take place on any subdivision site, and no building permits shall be issued by the town, until a final subdivision plat has

been recorded.” Town practice has been that infrastructure improvements take place after Preliminary Plat approval and before recording of the final plat. In addition 152.046 (B) “Subdivisions proposing, or being required to provide any public dedications, new public infrastructure or infrastructure improvements” state “For such subdivisions, a preliminary subdivision application approval shall not authorize the division or development of land, but shall allow the presentation to the town of a final subdivision application.” It is impossible to comply with these inconsistent requirements

A possible correction pending enactment of a new subdivision ordinance would be to delete the current 152.047, 152.069, 152.095, and 152.096 and amend 152.046 to clearly state that preliminary plat approval authorizes construction of the roads, utilities and other infrastructure improvements proposed on the preliminary plat and that final subdivision approval will take place after inspection of the work. Also the one-year time effective period in 152.46 (B) (2) (b) should be increased or provision made to apply for an extension to reflect realities of construction material and labor availability. NOTE: If the PC agrees on the intent of this recommendation further review of ordinance text will be required to be sure all necessary text corrections are identified.